

## **INITIAL STATEMENT OF REASONS**

### **Section 1859.190. General.**

#### **Specific Purpose of the Regulation**

To delete language that no longer applies to the Career Technical Education Facilities Program (CTEFP).

#### **Need for the Regulation**

It was necessary to delete language that has been repealed by Assembly Bill (AB) 99, Chapter 14, Statutes of 2017, and deletes the language related to the treatment of funds returning to the CTEFP. With the re-establishment of the CTEFP, the deleted language is no longer applicable.

### **Section 1859.193. Career Technical Education Facilities Grant Determination.**

#### **Specific Purpose of the Regulation**

To correct a subsection reference in Subsection (a)(1)(D)2.

#### **Need for the Regulation**

It was necessary to correct the subsection reference as it pertains to a qualifying School Facility Program project and not prevailing wage monitoring and enforcement costs. This is considered a non-substantive change.

### **Section 1859.194. Career Technical Education Facilities Program Matching Share Requirement.**

#### **Specific Purpose of the Regulation**

To inform applicants of what types of program funds cannot be used as the local matching share.

#### **Need for the Regulation**

It was necessary to inform applicants that Career Technical Education funds generated from other state or federal grant programs, such as the Career Technical Education Incentive Grant Program [Education Code Section 53071(a)(3)], the Career Technical Education Pathways Trust Program [Education Code Section 53013(a)], the Career Technical Education Initiative Program and the Perkins Federal Career and Technical Education Grant Program cannot be used to supplant a district's local matching share; otherwise, it would be state and/or federal dollars funding entire Career Technical Education projects. The CTEFP is a 50/50 program where the state provides 50 percent of the project cost and the district provides 50 percent of the project cost. Districts (applicants) applying for funds in the CTEFP may use any source of funds in order to provide their own matching funds.

### **Section 1859.195. Career Technical Education Facilities Project Apportionment.**

#### **Specific Purpose of the Regulation**

To delete language that no longer applies to the CTEFP.

## **Need for the Regulation**

It was necessary to delete language that has been repealed by AB 99, Chapter 15, Statutes of 2017. With the re-establishment of the CTEFP, the deleted language is no longer applicable.

### **Section 1859.198. Time Limit on Apportionment and Substantial Progress.**

## **Specific Purpose of the Regulation**

To set forth new language and delete language that no longer applies to the CTEFP.

## **Need for the Regulation**

It was necessary to provide new language that would allow funding being returned to the CTEFP as a result of a project being rescinded or reduced to costs incurred to be made available for Apportionment in subsequent funding cycles. It was also necessary to delete language that is no longer applicable because that statute has been repealed.

## **Anticipated Benefits and Economic Impact of the Proposed Regulations**

The proposed regulations promote the State's general welfare by re-establishing the CTEFP based on the successful passage of Proposition 51 and the repeal of SB 869, which removed the SAB's authority to make apportionments under the CTEFP on or after January 1, 2015 and also formalized how funds returning to the CTEFP were to be allocated. There is \$500 million in bond authority available for the SAB to allocate to school districts and local educational agencies for CTEFP projects. The CTEFP has been a highly successful program, with each funding round to date being over-subscribed. Proceeding with the re-establishment of the CTEFP will benefit school districts, local educational agencies and the State of California by providing facilities needed for students to learn the skills and knowledge critical for today's high demand technical careers and in increasing the State's infrastructure investment resulting in a positive impact to the State's economy as well as supporting job creation.

The proposed regulations are therefore determined to be consistent and compatible with existing State laws and regulations. Proceeding with the implementation of the proposed regulations carries out the will of the voters based on the successful passage of Proposition 51 in November 2016. The CTEFP will have a positive impact to the State's economy and has the potential of creating jobs.

## **Technical Documents Relied Upon**

The State Allocation Board's Action item, dated August 23, 2017, entitled "Career Technical Education Facilities Program Regulatory Amendments."

## **Alternatives to the Proposed Regulatory Action that would be as Effective and Less Burdensome to Private Persons**

The SAB finds that no alternatives it has considered would be more effective in carrying out the purpose of the proposed regulations or would be as effective and less burdensome to affected private persons than the proposed regulations or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

### **Alternatives to the Proposed Regulatory Action that would Lessen any Adverse Economic Impact on Small Business**

The SAB has determined that the proposed regulations will not have a negative impact on small businesses.

### **Finding of Significant Adverse Economic Impact on Businesses**

The SAB has determined that the adoption of the proposed regulations will not have a negative economic impact on businesses/small businesses because they are not required to directly comply with or enforce the regulations, nor will they be disadvantaged by the regulations. Proceeding with the re-establishment of the CTEFP will increase the State's infrastructure investment resulting in a positive impact to the State's economy as well as supporting job creation. Districts that receive bond funds for their projects must request the release of these funds. Once bond funds have been released, the demand on the manufacturing and construction-related industries could potentially stimulate the creation of businesses/small businesses in these areas.

### **Impact on Local Agencies or School Districts**

The SAB has determined that the proposed regulations do not impose a mandate or a mandate requiring reimbursement by the State pursuant to Part 7 (commencing with Section 17500) of Division 4 of the Government Code. It will not require local agencies or school districts to incur additional costs in order to comply with the proposed regulations.

## **ECONOMIC IMPACT ASSESSMENT OF REGULATIONS**

### *“Career Technical Education Facilities Program Regulatory Amendments”*

#### **Proposed State Allocation Board Regulations**

The State Allocation Board (SAB), at its August 23, 2017 meeting, adopted emergency regulations to re-establish the Career Technical Education Facilities Program (CTEFP) under the School Facility Program (SFP). The Kindergarten through Community College Public Education Facilities Bond Act of 2016 (Proposition 51) provided the CTEFP \$500 million in bond authority. In order for the SAB to apportion the CTEFP funding, the Program’s regulations must be reinstated.

The SAB was presented for its consideration additional funding cycles by which school districts and local educational agencies would submit grant applications. The Office of Public School Construction (OPSC) collaborated with the California Department of Education (CDE) in order to present the schedules for a fourth and fifth funding cycle. The SAB approved the fourth funding cycle with specific timelines as follows:

- Opening date of round was September 27, 2017 through November 29, 2017, for which school districts and local educational agencies would submit CDE grant applications.
- CDE scored the grant applications and published the results by February 14, 2018.
- School districts and local educational agencies submitted the *Career Technical Education Facility Funding* (Form SAB 50-10) to OPSC by close of business February 21, 2018.
- Presentation to the SAB by June 2018 for funding consideration.

#### **Background and Problem Being Resolved**

In 2006, the CTEFP was established under the SFP and \$500 million in bond authority was available for projects through Proposition 1D. The SAB established funding cycles with specific amounts of funding allocated to each funding cycle. The SAB also established in regulation (SFP Regulation Section 1859.196) how funds would be distributed to ensure the funds were distributed equally.

The proposed regulations resolve the problem of the CTEFP being an inactive program by re-establishing the CTEFP based on the successful passage of Proposition 51 and the repeal of Senate Bill (SB) 869, which removed the SAB’s authority to make apportionments under the CTEFP on or after January 1, 2015 and also formalized how funds returning to the CTEFP were to be allocated. There is \$500 million in bond authority available for the SAB to allocate to school districts and local educational agencies for CTEFP projects.

#### **Description of Regulations to Implement Law**

The following two State school bonds were authorized by the Legislature and approved by the State’s electorate for purposes of school facility construction for the CTEFP:

- Kindergarten-University Public Education Facilities Bond Act of 2006 (Proposition 1D)
- Kindergarten through Community College Public Education Facilities Bond Act of 2016 (Proposition 51)

The Leroy F. Greene School Facilities Act of 1998 established, through Senate Bill 50, Chapter 407, Statutes of 1998, the SFP. The SFP provides a per-pupil grant amount to qualifying school districts for purposes of constructing school facilities and modernizing existing school facilities.

The SAB adopted regulations to implement the Leroy F. Greene School Facilities Act of 1998, which were approved by the Office of Administrative Law and filed with the Secretary of State on October 8, 1999.

Proceeding with the re-establishment of the CTEFP will benefit school districts, local educational agencies and the State of California by providing facilities needed for students to learn the skills and knowledge critical for today's high demand technical careers and in increasing the State's infrastructure investment resulting in a positive impact to the State's economy as well as supporting job creation.

#### *Anticipated Benefits of the Proposed Regulations*

The proposed regulations promote the State's general welfare by re-establishing the CTEFP based on the successful passage of Proposition 51 and the repeal of SB 869, which removed the SAB's authority to make apportionments under the CTEFP on or after January 1, 2015 and also formalized how funds returning to the CTEFP were to be allocated. There is \$500 million in bond authority available for the SAB to allocate to school districts and local educational agencies for CTEFP projects. The CTEFP has been a highly successful program, with each funding round to date being over-subscribed. Proceeding with the re-establishment of the CTEFP will benefit school districts, local educational agencies and the State of California by providing facilities needed for students to learn the skills and knowledge critical for today's high demand technical careers and in increasing the State's infrastructure investment resulting in a positive impact to the State's economy as well as supporting job creation.

The proposed regulations are therefore determined to be consistent and compatible with existing State laws and regulations. Proceeding with the implementation of the proposed regulations carries out the will of the voters based on the successful passage of Proposition 51 in November 2016. The CTEFP will have a positive impact to the State's economy and has the potential of creating jobs.

#### *Summary of the Proposed Regulatory Amendments*

A summary of the proposed regulations is as follows:

Existing Regulation Section 1859.190 sets forth general filing submittal instructions and specifies that CTEFP modernization projects do not affect the Modernization Eligibility off that facility pursuant to Regulation Section 1859.60. The proposed emergency regulatory amendments deletes language that has been repealed by AB 99, Chapter 15, Statutes of 2017, and deletes the language related to the treatment of funds returning to the CTEFP.

Existing Regulation Section 1859.193 specifies that CTEFP projects may be allowed to construct a new facility or modernize or Reconfigure an existing facility. Grant determinations shall not exceed \$3 million for new construction projects or \$1.5 million for modernization/reconfiguration projects. It was brought to OPSC's attention that a subsection reference was incorrect. The proposed amendment corrects the reference and is considered a non-substantive change.

Existing Regulation Section 1859.194 specifies that CTEFP apportionments shall require an applicant matching share contribution on a dollar-for-dollar basis, and that loans may be requested by districts needing assistance to reach their matching share requirement, if specified criteria are met. Terms of loan agreements are set forth, including the requirement to repay the loan to the State with interest on the unpaid balance at the same rate as that charged by the Pooled Money Investment Board. The proposed emergency regulatory amendments provide

new language clarifying that funds generated from other state or federal grant programs, such as the Career Technical Education Incentive Grant Program cannot be used as the local matching share.

Existing Regulation Section 1859.195 prescribes the dollar amounts set forth for the first six-month and second six-month funding cycles, plus any funds remaining from the first cycle. The emergency regulatory amendments delete language that has been repealed by AB 99, Chapter 15, Statutes of 2017.

Existing Regulation Section 1859.198 specifies that applicants are subject to the time limit on apportionments as outlined in Education Code Section 17076.10 and substantial progress requirements pursuant to Regulation Section 1859.105. The emergency regulatory amendments provide new language to allow funding being returned to the CTEFP as a result of a project being rescinded or reduced to costs incurred to be made available for Apportionment in subsequent funding cycles. It also deletes language that is no longer applicable because that statute has been repealed.

#### Statutory Authority and Implementation

Education Code Section 17070.35. (a) In addition to all other powers and duties as are granted to the board by this chapter, other statutes, or the California Constitution, the board shall do all of the following: (1) Adopt rules and regulations, pursuant to the rulemaking provisions of the Administrative Procedure Act, Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, for the administration of this chapter.

Government Code Section 15503. Whenever the board is required to make allocations or apportionments under this part, it shall prescribe rules and regulations for the administration of, and not inconsistent with, the act making the appropriation of funds to be allocated or apportioned. The board shall require the procedure, forms, and the submission of any information it may deem necessary or appropriate. Unless otherwise provided in the appropriation act, the board may require that applications for allocations or apportionments be submitted to it for approval.

#### Determination of Inconsistency or Incompatibility with Existing State Regulations

The proposed regulations resolve the problem of the CTEFP being an inactive program by re-establishing the CTEFP based on the successful passage of Proposition 51 and the repeal of SB 869, which removed the SAB's authority to make apportionments under the CTEFP on or after January 1, 2015 and also formalized how funds returning to the CTEFP were to be allocated. There is \$500 million in bond authority available for the SAB to allocate to school districts and local educational agencies for CTEFP projects. This carries out the will of the voters based on the successful passage of Proposition 51 in November 2016. The CTEFP will have a positive impact to the State's economy and has the potential of creating jobs.

After conducting a review, the SAB has concluded that these are the only regulations on this subject area, and therefore, the proposed regulations are neither inconsistent nor incompatible with existing State laws and regulations. The proposed regulations are within the SAB's authority to enact regulations for the SFP under Education Code Section 17070.35 and Government Code Section 15503.

## **Impact to California Businesses and Jobs**

The proposed regulations resolve the problem of the CTEFP being an inactive program by re-establishing the CTEFP based on the successful passage of Proposition 51 and the repeal of SB 869, which removed the SAB's authority to make apportionments under the CTEFP on or after January 1, 2015 and also formalized how funds returning to the CTEFP were to be allocated. There is \$500 million in bond authority available for the SAB to allocate to school districts and local educational agencies for CTEFP projects. Proceeding with the re-establishment of the CTEFP will benefit school districts, local educational agencies and the State of California by providing facilities needed for students to learn the skills and knowledge critical for today's high demand technical careers. The CTEFP will increase the State's infrastructure investment resulting in a positive impact to the State's economy as well as supporting job creation. Re-establishment of the CTEFP carries out the will of the voters based on the successful passage of Proposition 51 in November 2016.

Therefore, the proposed regulations will most likely have a positive effect on the State's economy, creation of jobs, creation of new businesses, expansion of businesses, and will not eliminate jobs or eliminate existing businesses within California.

## **Benefits to Public Health and Welfare, Worker's Safety, and the State's Environment**

- The proposed regulations promote the State's general welfare by re-establishing the CTEFP based on the successful passage of Proposition 51 and the repeal of SB 869, which removed the SAB's authority to make apportionments under the CTEFP on or after January 1, 2015 and also formalized how funds returning to the CTEFP were to be allocated. There is \$500 million in bond authority available for the SAB to allocate to school districts and local educational agencies for CTEFP projects.
- There are continued benefits to the health and welfare of California residents and worker safety. School districts utilize construction and trades employees to work on school construction projects and although this proposed regulation does not directly impact worker's safety, existing law provides for the availability of a skilled labor force and encourages improved health and safety of construction and trades employees through proper apprenticeship and training. Further, public health and safety is enhanced because a properly paid and trained workforce will build school construction projects that are higher quality, structurally code-compliant and safer for use by pupils, staff, and other occupants on the site.
- Proceeding with the re-establishment of the CTEFP will benefit school districts, local educational agencies and the State of California by providing facilities needed for students to learn the skills and knowledge critical for today's high demand technical careers and in increasing the State's infrastructure investment resulting in a positive impact to the State's economy as well as supporting job creation.
- There is no impact to the State's environment from the proposed regulations.